



Area Plan Commission of Tippecanoe County, Indiana

June 17, 2021

Ref. No.: 2021-134

Tippecanoe County Board of Commissioners
20 North Third Street
Lafayette, Indiana 47901

CERTIFICATION

RE: **Z-2827 JOSHUA SHIVES (R1 to AW):**

Petitioner is requesting rezoning of 26.83 landlocked acres located north of the Sam Wilson Subdivision, west of US 231 South, in Wea 30 (SE) 22-4. Continued from the May APC meeting because one of the newspapers filed to publish the ad. Final continuance.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on June 16, 2021 the Area Plan Commission of Tippecanoe County voted 15 yes - 0 no on the motion to rezone the subject real estate from R1 to AW. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Board of Commissioners at their July 6, 2021 regular meeting. Petitioners or their representatives must appear to present their case.

Sincerely,

David Hittle
Executive Director

DH/ksl

Enclosures: Staff Report & Ordinances

cc: Joshua Shives, petitioner
Mike Wolf, Building Commissioner

z- 2827

ORDINANCE NO. 2021-14-CM

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA,
TO REZONE CERTAIN REAL ESTATE
FROM R1 TO AW

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TIPPECANOE COUNTY,
INDIANA:

Section 1: The Unified Zoning Ordinance of Tippecanoe County, Indiana, being a separate ordinance and not part of a unified county code is hereby amended to rezone the following described real estate situated in Wea Township, Tippecanoe County, Indiana

A part of the Southeast Quarter of Section 30, Township 22 North, Range 4 West, Wea Township, Tippecanoe County, Indiana, being part of a 32.60 acre tract of land described in a Warranty Deed to F&S Land Quest LLC, Instrument Number 201919016975, recorded 09/30/2019 in the Office of the Tippecanoe County Recorder, more particularly described as follows:

Commencing at the Southeast Corner of the Southeast Quarter of said Section 30-22N-4W; thence North 00°00'00" East 1211.00 feet to the North line of the Sam Wilson Subdivision as recorded in Plat Book 4, Page 5-A, in the office of the Tippecanoe County Recorder; thence North 90°00'00" West along the North line of said Sam Wilson Subdivision 238.65 feet to the Point of Beginning of the herein described tract, thence continuing North 90°00'00" West along said North line 751.35 feet; thence North 00°00'00" East 1222.00 feet; thence North 77°06'00" East 496.08 feet; thence North 69°41'58" East 156.51 feet; thence North 20°23'30" East 50.81 feet to the North Line of said Southeast Quarter; thence along said North line, North 90°00'00" East 341.95 feet to the Northeast corner of said Southeast Quarter; thence along the East line of said Southeast Quarter, South 00°00'00" East 430.61 feet; thence South 29°16'17" West 218.09 feet; thence South 14°24'38" West 46.48 feet; thence South 00°12'39" East 143.67 feet; thence South 38°34'23" West 117.99 feet; thence South 07°58'03" West 120.64 feet; thence South 01°36'08" East 68.74 feet; thence South 36°30'49" West 41.19 feet; thence South 15°40'33" West 49.59 feet; thence South 02°35'28" East 95.98 feet; thence South 21°15'53" East 40.90 feet; thence South 03°38'57" East 70.03 feet; thence South 17°00'06" West 62.72 feet to the Point of Beginning, containing 26.83 acres, more or less. (exclusive of land in the FP zoning district).
Subject to all easements, rights-of-way, restrictions, and covenants of record.

Section 2: The above-described real estate should be and the same is hereby rezoned from R1 to AW.

Section 3: This ordinance shall be in full force and effect from and after its adoption.

(Adopted And Passed) (Denied) by the Board Of Commissioners of Tippecanoe County, Indiana, this 6th day of July, 2021.

VOTE:

yes

Thomas Murtaugh
Thomas Murtaugh, President

yes

David Byers
David Byers, Vice President

yes

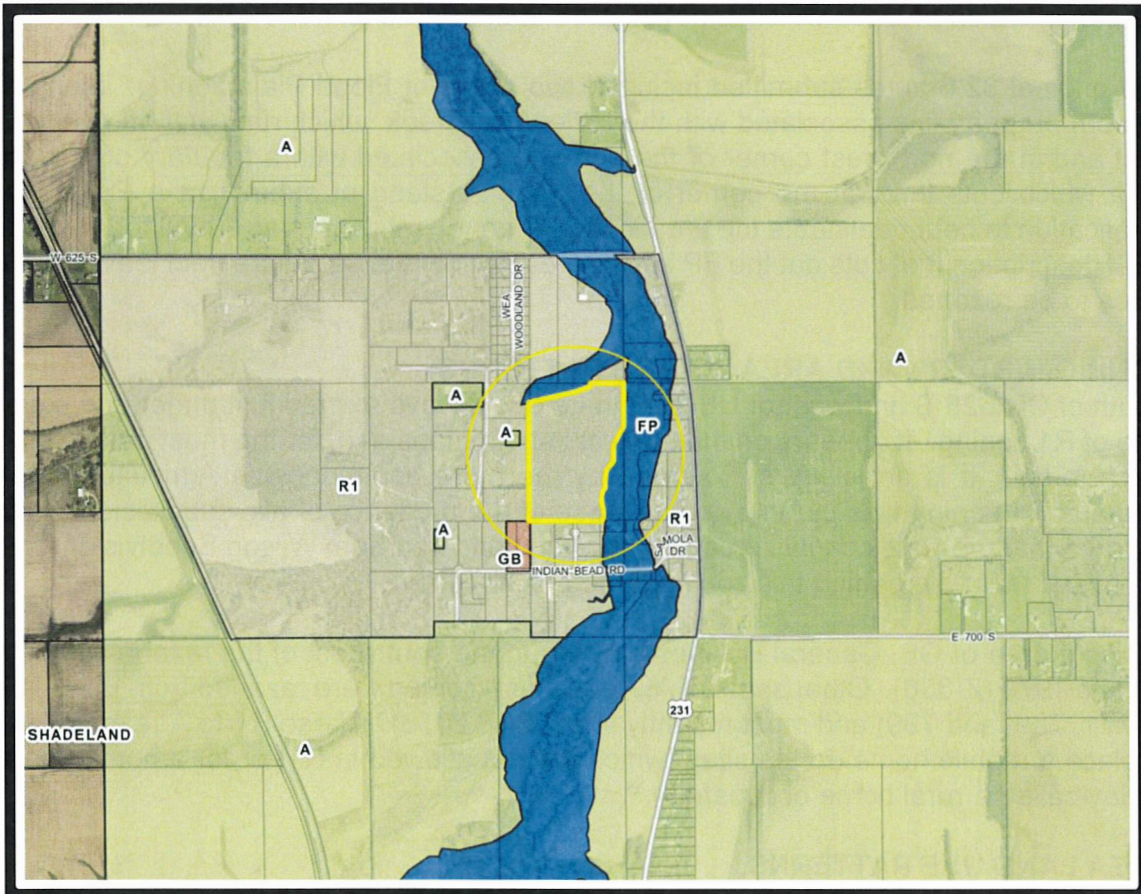
Tracy Brown
Tracy Brown, Member

ATTEST:

Robert Plantenga
Robert Plantenga, Auditor

Z-2827
JOSHUA SHIVES
(R1 to AW)

STAFF REPORT
May 13, 2021



REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner Joshua Shives, member/owner of F & S Land Quest, LLC, the owner of the site in question, is requesting rezoning of 26.83 acres that are currently landlocked, located north of the Sam Wilson Subdivision (Indian Bead Road), south of CR 625 S and west of US 231 South in Wea 30 (SE) 22-4. Petitioner plans to parcelize four building sites using the parcelization process which is not allowed in the R1 zone.

The original 32.6 acres submitted included two areas of Flood Plain zoning: along the eastern property line associated with the Little Wea Creek, which runs just off-site to the east and in the northwest corner of the acreage associated with a tributary of the Little Wea which cuts through the corner of the tract. Instead of submitting a Flood Plain certification to better delineate the area in the FP zone, petitioner has submitted a revised legal description that cuts out the FP zoned areas within the 32.6-acre tract leaving 26.83 acres to be rezoned.

ZONING HISTORY AND AREA ZONING PATTERNS:

South of CR 625 S and west of US 231, there has always existed just under one square mile of R1 zoning. It appears on the earliest zoning maps and, for the most part, is still in place today. It is an island surrounded by the more commonplace Agricultural zone. Perhaps R1 zoning was put in place because of the presence of two subdivisions within the area that pre-date county zoning: Wea Woodland and Sam Wilson Subdivisions. But the actual rationale behind this zoning pattern is unknown.

A 3 acre area of GB, General Business zoning to the southwest of the rezone site dates back to 1970 (Z-386). Other spots of A, Agricultural zoning were rezoned from R1 in 1976 (Z-771, 789, and 799) and most recently in 2002 (Z-2078). These R1 to A rezones were to place a mobile home on the sites (which are not allowed in R1) or for a home service (today called a rural home occupation).

AREA LAND USE PATTERNS:

The site in question is unimproved, wooded and partially sloped. Land in the vicinity is either used residentially, large-lot residential, wooded, or farmed. Wea Woodland Subdivision, to the northwest of the rezone site, has small residential lots; Sam Wilson Subdivision, to the south of the site in question, has somewhat larger residential lots, but still does not meet current ordinance area standards for lots without access to sewer.

TRAFFIC AND TRANSPORTATION:

These 26.83 acres are currently landlocked with no access to any nearby public roads. The closest access point is the cul-de-sac known as Lynn Lee Drive in Sam Wilson Subdivision to the south. Unfortunately, although the County GIS shows the right-of-way for this public street ending in a stub at petitioner's south property line, according to the County Highway Department, this is not the case. A certification recorded in 1966 by the surviving developer, clarified this point, which was left ambiguous by the original Sam Wilson subdivision plat recorded in 1953. The certification states that all of the right-of-way shown on the plat is dedicated to the public except a 75' x 40' area at the north end of the Lynn Lee Drive cul-de-sac. It is possible, although not certain, that the developers' heirs own this tiny piece of land. In any event, some legal legwork may be necessary in order to obtain an access easement, from Lynn Lee or any other public street, to serve any future parcelization of the site in question.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Land in this request would have to be served by individual septic systems and water wells. No bufferyard would be necessary to meet ordinance standards. Any parcelization here would be required to have the approval of the County Health Department, Highway Department, and the Surveyor's Office for drainage.

STAFF COMMENTS:

The Phased Land Use Plan map from the adopted *Comprehensive Plan* shows an "open space" future for this acreage. This means the requested AW zoning is more in line with the plan than the existing R1 zoning. Generally, based on the *Comprehensive Plan*, staff does not recommend approval of A to R1 rezone requests in the absence of sewer and water mains. This situation is the reverse. The land already has R1 zoning, but has no nearby sewer or water available. A rural estate could have been developed here (once access to the site was obtained) with the potential of up to 18 lots. Instead petitioner has chosen this request for AW zoning with the possibility of only 6 homesites (four parcels and two ten+ acre remainder tracts). Based on the recommendation of the *Comprehensive Plan*, and in the absence of sewer and water on this wooded acreage, staff can support this downzone request.

STAFF RECOMMENDATION:

Approval